

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CA0743
)	EEOC NO.: 21BA83109
CONSTANCE JEFFERSON)	ALS NO.: 10-0038
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Constance Jefferson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")^[1] of Charge No. 2009CA0743; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On September 15, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that Chicago State University (the "University") discharged her because of her age, 66 (Count A), and in retaliation for having filed two previous charges with the Respondent (Count B), in violation of Sections 2-102(A) and 6-101(A), respectively, of the Illinois Human Rights Act (the "Act"). On December 15, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On January 15, 2010, the Petitioner filed this timely Request.
2. The Petitioner was initially hired by the University on December 13, 1999, as an Administrative Secretary. On June 26, 2008, the University informed the Petitioner that her position would be eliminated effective June 30, 2008. However, pursuant to union rules, the Petitioner had the right to transfer to a different department within the University.

^[1] In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. On July 1, 2008, the Petitioner was transferred to the University's Career Development Center ("CDC"), where she continued to work as an Administrative Secretary. The Petitioner's work schedule in the CDC was from 9:00 a.m. to 5:00 p.m.
4. The Petitioner was disciplined several times for not adhering to her work schedule in the CDC: (1) On July 14, 2008, the University issued the Petitioner a first warning; (2) On July 18, 2008, the Petitioner was issued a one-day suspension; (3) On August 6, 2008, the Petitioner was issued a five-day suspension; (4) On August 18, 2008, the Petitioner was issued a ten-day suspension.
5. On October 13, 2008, the University decided to discharge the Petitioner due to her repeated failure to adhere to her work schedule in the CDC. The University offered to allow the Petitioner to resign, and the Petitioner accepted this offer.
6. However, in her charge the Petitioner alleged the University discharged her on September 13, 2008, because of her age, and in retaliation for her having filed charges of discrimination against the University on July 21, 2008, and on August 18, 2008.
7. In her Request, the Petitioner argues that almost all of her statements were inaccurately noted by the Respondent in its investigation report. The Petitioner offered no additional evidence in support of her Request.
8. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argues that the University had articulated a legitimate, non-discriminatory reason for discharging the Petitioner and there was no evidence that the articulated non-discriminatory reason was pretext for unlawful discrimination or retaliation.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D) (West 2010). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

The Commission concludes there is no substantial evidence the Employer's articulated non-discriminatory reason for discharging the Petitioner was pretext for unlawful discrimination. It is uncontested that the Petitioner was assigned new work hours after she had been assigned to the CDC, and that the Petitioner failed to adhere to her work schedule in the CDC. The University disciplined the Petitioner on more than one occasion for this infraction before the University finally decided to discharge the Petitioner.

The University put forth a legitimate, non-discriminatory business reason for its decision to discharge the Petitioner. The Petitioner has put forth no evidence, nor has the Respondent discovered any evidence, that this articulated reason was in fact a mere pretext for discrimination or retaliation. In the absence of any evidence that the business consideration relied upon by the University was a pretext for discrimination or retaliation, it is improper for the Commission to substitute its judgment for the University's business judgment. See Berry and State of Illinois, Department of Mental Health and Developmental Disabilities, IHRC, ALS No. S-9146 (December 10, 1997).

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

WHEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Chicago State University, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 25th day of August 2010

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini